

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

CR 09-325-13

v.

JOSEPH SCIARRETTI

DEFENDANT'S REPLY TO COURT'S TENTATIVE FINDINGS

This court has issued tentative findings setting a base offense level of 22, and reducing that level by 3 for Mr. Sciaretti's acceptance of responsibility, resulting in a total offense level of 19. The base offense level was calculated based upon a stipulation initially reached between the parties. Upon reflection, it appears that the stipulation was erroneous, and that the quantity attributable to Mr. Sciaretti is between 200 and 300 grams of cocaine, rather than the 300 to 400 grams originally stipulated to by the parties. The United States has recently filed a sentencing memorandum in which the prosecutor has properly and professionally advised this Honorable Court as to this discrepancy. Counsel for the parties have discussed this matter, and it appears that the correct base offense level for Mr. Sciaretti should be a 20. Reducing this base offense level of 20 by 3 for Mr. Sciaretti's acceptance of responsibility should result in a total offense level of 17, rather than the 19 as originally contemplated. Accordingly, Mr. Sciaretti asks this Honorable Court to revise its tentative findings to reflect

the correct offense level. This appears to be consistent with the understanding of both parties as well as the facts as they relate to Mr. Sciaretti. The material mistake of fact originally made by the parties should not work to the detriment of Mr. Sciaretti. Accordingly, it is respectfully requested that this Honorable Court adjust the guidelines accordingly.

Respectfully submitted,

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